

### Remarks

Claims 1-12 appear in this application. Claims 4-7 and 11 have been amended.

The rejection of claims 4-5 and 11 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is respectfully traversed. There appears to be no objection whatsoever to the written description of the invention as set forth in Applicant's specification and accordingly, a rejection based on the first paragraph of 35 U.S.C. 112 is respectfully traversed. It is the claim language that the Examiner has taken issue. The claims have been amended as suggested by the Examiner so that the language is clearly found in applicant's specification; however, the choice of words is mere semantics. The invention defined by the words is the same whether the Applicant's words ("nutritionally acceptable carrier") or the words of the Naidu patent ("naturally occurring substrate") are used. Applicant complies with the highly technical rejection; however, Applicant asserts that the claims as originally submitted ***particularly pointed out and distinctly claimed the subject matter which Applicant regards as his invention***.

The statement "This is a new matter rejection." is not understood. Applicant has amended the claims to place the application in condition for allowance and accordingly there is no new matter whatsoever in the claims now presented.

The rejection of claims 6-7 under 35 U.S.C. 112, second paragraph, as being indefinite is respectfully traversed. Again, Applicant complies with the

highly technical rejection; however, Applicant asserts that the claims as originally submitted ***particularly pointed out and distinctly claimed the subj ct matter which Applicant regards as his invention***.


Applicant has made the changes in the claims to place this application in condition for allowance. The claims having been found directed to allowable subject matter and all claims placed in condition for allowance, it is respectfully requested that an interference be declared between this application and U.S. Patent 6,172,040. This action should be taken immediately since this application has been pending for over two years.

\*\*\*\*\*

#### CERTIFICATE OF MAILING

Express Mail ER 449008368 US

I hereby certify that this Response to Office Action is being deposited with the U.S. Postal Service as Express Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 12, 2004.

  
\_\_\_\_\_  
Kurt S. Myers